

MAERSK LINE/HLAG SLOT CHARTER AGREEMENT

FMC AGREEMENT NO. 011928-009
(3rd Edition)

A Cooperative Working Agreement

Expiration Date: None

ARTICLE 1: FULL NAME OF THE AGREEMENT

The full name of this Agreement is the Maersk ~~Line~~/HLAG Slot Charter Agreement ("Agreement").

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to authorize Maersk ~~Line~~ to charter space to HLAG in the Trade (as hereinafter defined) and to authorize the parties to enter into cooperative working arrangements in connection therewith.

ARTICLE 3: PARTIES TO THE AGREEMENT

The parties to the Agreement (hereinafter "party" or "parties") are:

1. Maersk ~~Line~~-A/S
50, Esplanaden
DK-1098, Copenhagen K.
Denmark
2. Hapag-Lloyd AG ("HLAG")
Ballindamm 25
20095 Hamburg, Germany

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of the Agreement shall extend to the trade between the ports on the U.S. Atlantic Coast which may be served by Maersk ~~Line~~ from time to time on the one hand, and ports in Australia, New Zealand, and Panama, on the other hand. All of the foregoing is hereinafter referred to as the "Trade."

ARTICLE 5: AGREEMENT AUTHORITY

5.1 Maersk ~~Line~~ shall guarantee the availability of and provide to HLAG, and HLAG shall purchase from Maersk ~~Line~~, slots for 204 TEUs/3,264 MT (whichever is used first) and 71 reefer plugs on each northbound voyage of Maersk ~~Line~~'s service in the Trade, and slots for 268 TEUs/3,752 MT (whichever is used first) and 60 reefer plugs on each southbound voyage of Maersk ~~Line~~'s service in the Trade.¹ Maersk ~~Line~~ may sell HLAG slots in excess of the foregoing allocation on an ad hoc basis on terms to be agreed by the parties. HLAG may not slot charter or sub-charter slots made available to it under this Agreement to any third party without the prior consent of Maersk ~~Line~~.

5.2 The parties are authorized to discuss and agree on the terms and conditions relating to the sale of slots hereunder, including slot hire, the number of reefer plugs to be provided, the maximum weight restrictions (if any) applicable to the slot allocation, the permitted ratio (if any) of particular equipment sizes, and the compensation to be paid for such slots.

¹ In the event Maersk ~~Line~~'s space charter agreement with CMA CGM is terminated, HLAG's allocation shall be 224 TEU/3,584 MT northbound and 290 TEU/4,060 MT southbound, as well as 75 and 60 reefer plugs, northbound and southbound, respectively.

5.3 Maersk ~~Line~~ and the vessels on which it provides space shall comply with the requirements of the ISM Code. Maersk ~~Line~~ shall be responsible for all operational aspects of the vessels. Maersk ~~Line~~ shall have the option to introduce changes to the

vessel schedule, and shall communicate ad hoc or permanent changes in the vessel schedule to HLAG at least 30 days in advance. In the event Maersk ~~Line~~ clearly demonstrates that factors beyond its control have made it necessary to omit a port or ports in order to restore the schedule, it may load and discharge cargo at the nearest port of convenience with transshipment, storage and other costs to be for the account of the party that issued the bill of lading for such cargo. Maersk ~~Line~~ shall undertake to ensure proper and immediate notice and provide consultation as to efforts to minimize related costs. In the event that operating conditions such as but not limited to strikes by terminal employees impair Maersk ~~Line~~'s ability to sustain a regular weekly service, HLAG accepts to pay its proportional share (slots purchased compared to vessel capacity) of any additional operating costs incurred during such period, for instance resulting from Maersk ~~Line~~'s decision to deploy an extra vessel.

5.4 The parties are authorized to discuss and agree on the joint and/or individual negotiation of appropriate contracts with terminal operators and stevedores, and to reach agreement on other issues relating to the loading and/or discharge of cargo, such as overtime and stand-by time.

5.5 HLAG shall comply with all laws, regulations, requirements, directions or notices of customs, port and other authorities, and shall bear, pay and indemnify Maersk ~~Line~~ against all duties, taxes, fines, imposts, expenses, liabilities, damage, delay or losses (including, without prejudice to the generality of the foregoing, freight for any additional carriage undertaken) incurred, suffered or related to any illegal, incorrect, untimely or insufficient declaration, marking, numbering or addressing of HLAG cargo or containers that are subject to this Agreement. Further, HLAG shall

immediately communicate to Maersk ~~Line~~ or its designee hold orders received from US Customs in respect to particular bills of lading or containers. HLAG shall co-operate fully with Maersk ~~Line~~ or its designee in complying with hold orders, providing necessary information to Maersk ~~Line~~, its designee, and U.S. Customs, and otherwise assuring prompt and full compliance with related instructions received from U.S. Customs. These obligations shall apply strictly and without regard to whether HLAG acted or failed to act intentionally, negligently or otherwise.

5.6 The parties shall both be signatory to the Agreement to Voluntarily Participate in Customs-Trade Partnership Against Terrorism ("C-TPAT Agreement") and agree to develop and implement a verifiable, documented program to enhance security procedures throughout their respective portions of the supply chain process, as described in the C-TPAT Agreement.

5.7 The parties are authorized to discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from time to time, including, but not limited to, performance procedures and penalties; stowage planning; record-keeping; responsibility for loss or damage; insurance; the handling and resolution of claims and other liabilities; indemnification; documentation and bills of lading; and the treatment of hazardous and dangerous cargoes.

5.8 Pursuant to 46 C.F.R. § 535.408(b), any further agreement contemplated herein cannot go into effect unless filed and effective under the Shipping Act of 1984, as amended, except to the extent that such agreement concerns routine operational or administrative matters.

5.9 The parties shall collectively implement this Agreement by meetings, writings, or other communications between them and make such other arrangements as may be necessary or appropriate to effectuate the purposes and provisions of this Agreement.

ARTICLE 6: AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY

The following are authorized to subscribe to and file this Agreement and any accompanying materials and any subsequent modifications to this Agreement with the Federal Maritime Commission:

- (i) Any authorized officer of either party; and
- (ii) Legal counsel for either party.

ARTICLE 7: VOTING

Except as otherwise provided herein, all actions taken pursuant to this Agreement shall be by mutual agreement of the parties.

ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT

8.1 This Agreement shall become effective on the date it is effective under the U.S. Shipping Act of 1984, as amended, or such later date as may be agreed by the parties in writing. It shall continue until at least June 30, 2012, with a minimum notice of termination from either party of 6 months. Such notice of termination shall not be given prior to December 31, 2011.

8.2 Notwithstanding Article 8.1 above, this Agreement may be terminated pursuant to the following provisions:

(a) If, at any time during the term of this Agreement there shall be a change in ownership of a party, and the other party is of the opinion, arrived at in good faith, that such change in control is likely to materially prejudice the cohesion or viability of the Agreement, then the other party may, within 12 months of becoming aware of such change, give not less than three months notice in writing terminating this Agreement.

(b) If, at any time during the term of this Agreement either party (the "Affected Party"):

- i) is dissolved;
- ii) becomes insolvent or fails to pay its debts as they become due;
- iii) make a general assignment, arrangement or composition with, or for the benefit of its creditors;
- iv) has a winding-up order made against it or enters into liquidation whether voluntarily or compulsorily;
- v) seeks or becomes the subject of the appointment of an administrator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;

and the other party is of the opinion that:

- i) such event or occurrence is or may be materially detrimental to the service under this Agreement; or
- ii) sums that may be owed (other than those that would be considered disputed in good faith) may not be paid or have not been paid in full or that their payment may be delayed;

then the other party may give notice to the Affected Party terminating with immediate effect or suspending for such period as the other party in its sole discretion deems appropriate, this Agreement or any part thereof.

8.3 Furthermore, should HLAG repeatedly fail to comply with the requirements described in Article 5.5 of this Agreement, or should HLAG not comply with the requirements under the C-TPAT as described in Article 5.6 of this Agreement, Maersk Line can terminate this Agreement with immediate effect.

8.4 Notwithstanding any termination in accordance with Article 8.2 or 8.3 above, the non-defaulting party retains its right to claim against the defaulting party

for any loss and/or damage caused or arising out of such termination.

8.5 Notwithstanding the above, Maersk ~~Line~~ may terminate this Agreement with 6 months notice at any time after a minimum period of 6 months duration has elapsed from the point at which Amendment No. 005 came into effect, and only in the case that Maersk ~~Line~~ decides to cease operation of the service. HLAG may terminate the Agreement on the notice provided in this Article 8.5 in the event it leaves the Trade.

ARTICLE 9: NON-ASSIGNMENT

Neither party shall assign all or any part of its rights, or delegate all or any part of its obligations, under this Agreement to any other person or entity without the prior written consent of the other party.

ARTICLE 10: FORCE MAJEURE

10.1 Neither Maersk ~~Line~~ nor HLAG shall be deemed responsible with respect to its failure to perform any term or condition of the Agreement if such failure, wholly or partly, is due to an event of Force Majeure, such as, but not limited to: war (declared or undeclared); terrorism; hostilities; warlike or belligerent acts or operations; piracy; riots; civil commotion or other disturbances; participation in the U.S. Department of Defense Emergency Preparedness Program or other U.S. military national security agreements; acts of God; blockade of port or place or interdiction or prohibition of or restriction on commerce or trading; governmental action including but not limited to quarantine, sanitary or other similar regulations or restrictions; strikes, lockouts or other labor troubles whether partial or general and whether or not